

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

STARBUCKS CORPORATION

Employer

and

WORKERS UNITED

Petitioner

Case No.: 3-RC-285929

**STARBUCKS CORPORATION'S OBJECTIONS
TO CONDUCT OF THE ELECTION**

Pursuant to the Rules and Regulations of the National Labor Relations Board ("NLRB"), including Section 102.69, Starbucks Corporation ("Starbucks" or "Employer") files the following Objections to Conduct of the Election in connection with the mail ballot election in Case No. 3-RC-285929.

In response to Workers United's ("Union") representation petition in Case No. 3-RC-285929, the Employer opposed the holding of a mail ballot election given the well-established problems relating to mail ballot elections. The Employer asserted its position in its Statement of Position, on the record at the representation hearing, and in its post-hearing brief. On January 14, 2022, Region 3 directed a mail ballot election over the Employer's objection. ("January 14 D&DE"). In the January 14, 2022 D&DE, the Region directed the mailing of ballots from Region 3's office on January 30, 2022, with eligible voters to return ballots by close of business on February 22, 2022, and a virtual ballot count set to occur on February 23, 2022.

The Employer timely-filed a Request for Review, which the Board did not rule upon prior to the scheduled count on February 23, 2022. As a result, under Section 102.67(c) of the NLRB's

Rules and Regulations, the ballots were impounded and remained unopened pending such ruling or decision. On March 7, 2022, the Board issued its Order denying the Employer's Request for Review. On March 7, 2022, Region 3 informed the Parties that it was rescheduling the ballot count to March 9, 2022.

At the March 9, 2022 ballot count, Region 3 informed the Parties that ballots of only 15 of the 38 eligible voters on the Voter List were received by the Region. Thus, the Parties were informed that the ballots of 23 employees (known as partners), or 61% of eligible voters, had not arrived at the Region's office. Region 3 proceeded to open the 15 ballots and the resulting tally was 8 to 7, in favor of Union representation. Accordingly, 8 of 38 partners, 21%, decided the election for all partners.

Partners were surprised by the low number of votes that were counted. After the ballot count, multiple partners asked their managers if their votes had been counted. Numerous partners confirmed that, despite their ballots not being counted during the count, they had in fact cast their ballots and knew specifically when and where they did so. Each of these partners voted and mailed or delivered their ballots prior to the March 9, 2022 ballot count, however, their ballots were inexplicably not counted by Region 3. Nor were their ballots challenged, voided, or even acknowledged. They were simply unaccounted for.

Specifically, one partner said that she hand-delivered her ballot to Region 3's office on the morning of February 22, 2022, by placing it under Region 3's office door. She can confirm this through tracking data in her phone. The Region did not count, nor account, for this partner's ballot, which was determinative in the election based on the counted ballots on that date.

After the election, on March 16, 2022, Starbucks filed an objection that Region 3 personnel engaged in election misconduct by failing to process one or more timely-cast ballots that were

delivered to the Regional office prior to the March 9 ballot count, based on the facts above.

To prevent Region 3 from investigating its own alleged misconduct, investigation of the Employer's objection was transferred to NLRB Region 10. The Regional Director of Region 10, Lisa Henderson, conducted an administrative investigation into the Employer's objection regarding Region 3's misconduct. On April 12, 2022, Region 10 informed the parties that its administrative investigation found that Region 3 engaged in misconduct by failing to count seven valid ballots in its possession, without giving a reason for this failure, noting "[t]he casefile contains no reason as to why the seven ballots that arrived on February 25 were not processed at the March 9 count." Significantly, Region 10 did not provide the parties with *any* information regarding the chain of custody for the seven ballots that it found were received by Region 3 on February 25, 2022 and which Region 3 failed to open and count on March 9, 2022. To this date, the parties do not know how or if Region 3 maintained custody and control over these ballots for a period of one month, from the date the ballots were received on February 25, 2022 until they were counted on April 22, 2022.

On April 22, 2022, Region 3 conducted a second ballot count, during which five of the "found" ballots were ultimately counted, with one ballot being challenged by the Employer, and one ballot where the parties agreed that the voter was ineligible. The resulting count was 10-10, with the one challenged ballot being determinative.

Despite Region 10 finding seven additional valid ballots in Region 3's casefile after the initial count, the ballots of additional partners who timely cast their ballots remain unaccounted for. At least four additional partners who timely voted, either by dropping their ballots off at Region 3's office or by mailing their ballots well in advance of the count, did not have their ballots

counted. Simply stated, the timely-cast ballots of four more partners have been “lost” and not accounted for by Region 3. Given the current count, these votes are determinative in the election.

It is alarming that, but for the Employer filing its objection on March 16, the parties would have never learned of the seven “found” ballots. Region 3’s misconduct – including the absence of any explanation as to why the seven “found” ballots were not counted during the tally of ballots or that the Region had the seven ballots in its possession – undermines the integrity of the election process and destroyed laboratory conditions. The fact that the Employer has evidence that four additional partners timely cast ballots and such ballots remain unaccounted for by Region 3 calls into question Region 3’s conduct and underscores the lack of integrity in Region 3’s processing of representation petitions.

It is requested that Region 10 or another Regional office investigate the instant Objections. It is improper for Region 3 to conduct an investigation into its own alleged misconduct and essentially rubberstamp its actions, which is what Region 3 recently did in overruling the Employer’s objections in Case 3-RC-289801. The Employer’s objections in Case 3-RC-289801 also centered on Region 3’s misconduct in processing another mail ballot election.

Through its misconduct, Region 3 deprived Starbucks’ partners of their Section 7 rights to vote on the issue of union representation.

Region 3’s objectionable conduct includes the following:

OBJECTION 1

Region 3 personnel's actions in their handling of the ballot count casts doubt on whether all valid ballots were counted, and undermines the integrity of the election and the parties' confidence in the election results.

OBJECTION 2

Region 3 personnel engaged in election misconduct by failing to include one or more timely-cast ballots in the March 9, 2022 virtual ballot count.

OBJECTION 3

Region 3 personnel engaged in election misconduct by representing to the parties that all ballots received by the Region were present during the March 9, 2022 virtual ballot count.

OBJECTION 4

Region 3 personnel engaged in election misconduct by failing to notify the Petitioner and the Employer of the fact that it had received timely-cast ballots that it did not include in the March 9, 2022 virtual ballot count.

OBJECTION 5

Region 3 personnel engaged in election misconduct by failing to maintain the chain of custody over a dispositive number of timely-cast ballots, thereby tainting the election process and undermining the election results.

* * *

Based upon each of the foregoing Objections, the Employer respectfully submits that the election results must be set aside and a re-run election conducted. If the Regional Director does not order a re-run election administratively, the Employer requests a hearing in which to present documentary evidence and witness testimony in support of its Objections.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that Starbucks Corporation's Objections to Conduct of the Election in Case No. 3-RC-285929 was electronically filed on April 28, 2022, through the Board's website and also served via email on the following:

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